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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,314	07/01/2004	Leonard Shaner	81100061 / FMC 1755 PUS	4313
28395 7590 12/23/2008 BROOKS KUSHMAN P.C./FGIL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238				
EXAMINER				
SPISICH, GEORGE D				
ART UNIT		PAPER NUMBER		
3616				
MAIL DATE		DELIVERY MODE		
12/23/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/710,314

**Applicant(s)**

SHANER ET AL.

**Examiner**

GEORGE D. SPISICH

**Art Unit**

3616

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13, 16-20, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-20, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,7,22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Sato et al. (USPUB2003/0168836).

Sato discloses a side airbag (1) apparatus (see at least Figs. 7 and 8) having side aspect including a generally triangular portion disposed toward a front of the airbag when the airbag is deployed. The side aspect being “at least partially” defined by a posterior edge, a top edge extending forward from the posterior edge, at least a portion of the bottom edge extending forward and upward toward the top edge, such that the side aspect substantially narrows from a back region to a front region. The generally triangular portion being defined by the top edge, and an axis intersecting the top edge and the bottom edge. Due to the broad language of “at least a portion” of the bottom edge, the term “triangular portion”, and “at least partially define” the airbag of Sato includes a tapering portion (in side view, the forward half of the airbag) that has “a portion” of the bottom edge extending forward and upward from the posterior edge. It includes a triangular portion (not claimed to be the entire side of the airbag). Given this

"sub" portion, there is a posterior and forward area of this sub-portion. Furthermore, the axis may be drawn at any portion of the airbag and at any angle so as to meet the claim limitation and define the triangular "portion".

Sato shows an inflator cooperating with the airbag to supply gas thereto, thereby facilitating deployment of the airbag.

The airbag shows what is well known in the airbag art, to provide a reinforced region (any area of the airbag such as the central portion/chamber) for providing additional strength to the airbag.

The portion of the bottom edge extending forward and upward is connected to the top edge by a radiused corner (near 16).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. et al. (USPUB2003/0168836) in view of Steffens Jr. et al. (USPN 5,439,248).

Sato et al. has been discussed in the prior rejection. However, the airbag of Sato et al. does not have a wedge shape rear aspect.

Steffens et al. (as shown in at least Fig. 6) shows a side airbag having a generally wedge shaped rear aspect narrowing from an upper region to a lower region.

This shaped would provide more protection in the upper torso/upper arm region of an occupant.

It is well known in the airbag art to have various shapes for airbags that provide protection in a variety of vehicle locations and with respect to parts of a vehicle occupant's body as deemed necessary.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the airbag of Sato et al. so as to provide a wider portion of the airbag towards the upper portion of the airbag and a tapering portion towards the lower portion (where impact with the occupant's torso not as harsh due to the mass and width of the upper torso) so as to provide a wedge-shaped rear aspect as taught by Steffens Jr. et al. so as to provide enhanced protection for an occupant seated adjacent the deployed airbag.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. et al. (USPUB2003/0168836) in view of Kai et al. (USPN 7,108,278).

Sato et al. has been discussed in the prior rejection. However, the airbag of Sato et al. does not have a wedge shape top aspect or vent holes to exhaust air from the airbag.

Kai et al. (as shown in at least Fig. 6) shows a side airbag having a generally wedge shaped top aspect narrowing from a posterior region to a front region. This shaped would provide more protection in the upper torso/upper arm region of an occupant.

It is well known in the airbag art to have various shapes for airbags that provide protection in a variety of vehicle locations and with respect to parts of a vehicle occupant's body as deemed necessary.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the airbag of Sato et al. so as to provide a wider portion of the airbag towards the posterior portion of the airbag and a tapering portion towards the front portion (where impact with the occupant's torso not as harsh due to mass and width of the upper torso) so as to provide a wedge-shaped top aspect as taught by Kai et al. so as to provide enhanced protection for an occupant seated adjacent the deployed airbag.

Claims 4,5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (USPUB2003/0168836) in view of Keshavaraj et al. (USPN 6,344,251).

Sato et al. has been discussed in a prior rejection. However, Sato et al. does not show the airbag comprising a polymeric material of at least 600 denier or the inflator configured to inflate the airbag to at least 25 pounds per square inch.

Although Examiner maintains that it is well known in the art to use a known fabric of desired strength and an inflator that provides adequate inflation for occupant protection, Examiner is further relying on Keshavaraj et al. for this teaching.

Keshavaraj et al. (see col. 2, lines 45-67) discloses the use of a polymeric material having up to 840 denier and compatible with inflation of (col. 1, lines 50-52) pressures as high as 50 psi.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use any known material and inflator characteristics in the airbag arrangement of Sato et al. such as one having the parameters and that is disclosed by Keshavaraj et al. since providing a strong airbag would be more durable and provide enhanced protection for the occupant seated beside the airbag.

Claims 9,12 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (USPUB2003/0168836) in view of Steffens Jr.et al. (USPN 5,439,248) as applied to claims 2,8,13 and 14 above, and further in view of Kai et al. (USPN 7,108,278).

Sato et al. in view of Steffens Jr. et al. have been discussed in a prior rejection. However, neither reference shows a wedge shaped top aspect.

Kai et al. (as shown in at least Fig. 6) shows a side airbag having a generally wedge shaped top aspect narrowing from a posterior region to a front region. This shaped would provide more protection in the upper torso/upper arm region of an occupant.

It is well known in the airbag art to have various shapes for airbags that provide protection in a variety of vehicle locations and with respect to parts of a vehicle occupant's body as deemed necessary.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the airbag of Sato et al. in view of Steffens Jr. et al. to further have a tapered view from the top aspect, narrowing from a posterior region

to a front region as taught by Kai et al. so as to provide enhanced protection for an occupant seated adjacent the deployed airbag.

Claims 10,11,16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (USPUB2003/0168836) in view of Steffens Jr. et al. (USPN 5,439,248) as applied to claims 2,8,13 and 14 above, and further in view of Keshavaraj et al. (USPN 6,344,251).

Sato et al. in view of Steffens Jr. et al. has been discussed in a prior rejection. However, neither Sato et al. nor Steffens Jr. et al. show the airbag comprising a polymeric material of at least 600 denier or the inflator configured to inflate the airbag to at least 25 pounds per square inch.

Although Examiner maintains that it is well known in the art to use a known fabric of desired strength and an inflator that provides adequate inflation for occupant protection, Examiner is further relying on Keshavaraj et al. for this teaching.

Keshavaraj et al. (see col. 2, lines 45-67) discloses the use of a polymeric material having up to 840 denier and compatible with inflation of (col. 1, lines 50-52) pressures as high as 50 psi.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use any known material and inflator characteristics in the airbag arrangement of Sato et al. in view of Steffens Jr. et al. such as one having the parameters and that is disclosed by Keshavaraj et al. since providing a strong airbag



would be more durable and provide enhanced protection for the occupant seated beside the airbag.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-13,16-20,22 and 23 have been considered but are moot in view of the new ground(s) of rejection.

Applicant has claimed a side airbag having a triangular side profile "portion" that narrows from rear to front and wedge profiles from the top and rear view that narrows from rear to front and top to bottom respectively. Examiner insists that the claim language which uses the terms "generally" and "portion" and "at least partially defined" does not require the airbag to look identical to Applicants. The limitation that an axis defines the triangular portion of the airbag, further allows this interpretation to be defining the claimed structure of the airbag as only a portion. The airbag of Sato et al. can properly be defined by a top edge, a bottom edge that tapers as it extends upward to the top edge from an axis (positioned at any point and at any angle) to substantially narrow (at the upper and forwardmost portion of the airbag) to define a generally triangular "portion" (emphasis on portion). The structure relied on to define the triangular portion of Sato et al. is three sided and not four sided and therefore defines a triangular portion. Any three sided portion would be considered "generally triangular". Furthermore, a "generally" triangular portion can include curved or non-straight line edges. Applicant has not claimed detail of the edges to overcome Sato et al. and further in view of the modifying references.

With respect to Applicant's argument that the references do not teach that the airbag does not "substantially narrow" for an axis to the front of the airbag, Examiner disagrees and maintains the rejection. The "narrowing" of the airbag from the axis to the front of the airbag is defined by Sato et al. The axis can be drawn in a location where this clearly meets the claim limitation. An edge can further be considered to narrow if the final position is "narrower" than the start position. Applicant has not claimed details of the edges (such as straight lined) to prevent a slightly curved edge from reading on the claimed limitation(s) and defining a "generally" triangular portion. Furthermore, Examiner points that Applicant's airbag is only shown to be a triangular side portion in the forward portion of the airbag, as Applicant has a four sided airbag when considering the posterior edge, a lower edge (horizontal), and upwardly inclined edge and a top edge.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE D. SPISICH whose telephone number is (571)272-6676. The examiner can normally be reached on Monday-Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on (571) 272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/  
Supervisory Patent Examiner, Art Unit 3616  
/George D. Spisich/  
Examiner, Art Unit 3616  
December 21, 2008